1952. K File No. O. Influx from Pak 152.

Legal Deptt.

A. BRANCH

Subject:— Opinions under the Influx from Pakistan (Control) Act 1949.

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I N D E X

Legal Department File No. O. Influx from Pak/52

Sr. No.	R.I. O. No.	Subject	Pages.
		Opinions under Re Influx from the Pakistan (Control) Act, 1949.	
1.	~~1488-A~~ 11-9-52	If an externee were anxious for the Citizenship of India if was open to here to get himself register as a Citizen of India by the Diplomatic or Consular representative of India in Pakistan under article 8.	1
2.	~~14987-A~~ 13-9-52	Power of removal under Sec. 7 can he invoked from Pakistan on the ground that a reasonable suspicion exists that Shrimati Ayeshabi has committed an offence of overstayal	3
3.	~~16369~~ 6-10-52	Prosecution of Shri Ebrahim Ahmed Khota for overstayal could also be removal	5
4.	~~20257-A~~ 3-12-52	Sec. 6 The High Court having restrained the relevant authorities from exercising the powers of removal under sec 7 against Shri Yusufalibhai it would not be correct to exercise the powers to arrest against the same person upon the same grounds under	7
5.	Memo of Instructions	Two questions of law. 1) whether the Influx from Pakistan ordinance ground. Re merged States areas also in view of the provisions of the Instrument of Accession 2) Re ordinance made by the Re Governor General had not the force of law in the acceding State because the Instrument of Accession speaks of all matters enumerated	9-15

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1.	2.	3.	4.
6.	2214-A 31-12-52	The lapse of 4 years since the accusees committed and offence ~~having~~ being explainable would not be a bar to the exercise of the power of removal under ~~xxxxxxx~~	17

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Office of the R.L.A.

The Legal position stated by Rehabilitation Department in its office note dated 4th September 1952 is correct. It is apparent that the externee is not a Citizen of India nor did he attempt to obtain a permit for re-settlement or permanent return issued by or under the authority of any law under the proviso to article 7 of the Constitution of India. If he were anxious for the citizenship of India, it was open to him to get himself registered as a citizen of India by the Diplomatic or Consular representative of India in Pakistan under article 8. By failing to take any steps for retention or recognition of his right of citizenship of India, he has forfeited all claims for such right. Once it is conceded that he can no longer claim to be a citizen of India, he can have no claim for the conversion of his temporary permit into a permanent one, as such conversion would mean the recognition of his right to citizenship of India. It may be true that his parents and wife are residing in India and it would be a great hardship for him to be externed out of India, but this ground alone would not entitle him to claim a permanent permit to reside in India. Besides, to grant him a permanent permit now on such ground would be setting a bad precedent as there may be numberous case of this kind. TheHigh Court may, therefore; be informed as proposed by Rehabilitation Department.

Sd/- P.M.Lad

O.C. 9/9/

Remembrancer of Legal Affairs.

U.R. to R.H.D. No. 14884/A dated the 11th September 1952.

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Office of the A.L.A.

Power of removal under section 7 of the Influx from Pakistan (Control). Act, 1949, can be invoked only on the ground that a reasonable suspicion exists that Shrimati Ayeshabi has committed an offence of overstayal . For this very offence however she was prosecuted and has been acquitted. That acquittal has been acquiesced in. It appears that the advice to acquiesce in the acquittal was based on the consideration that there was an implied extension of time in this case. Unless, therefore, the Administrative Department has evidence to show that there has been a fresh overstayal even after the period of extension expired, it would not be feasible to exercise powers under section 7 on the basis of the previous facts. The Department is, therefore, requested to consider whether there is any such case of fresh xxxxxxxx overstayal after the extended period expired.

Sd/- P.N.Lad
12/9

o.c.

Remembrancer of Legal Affairs.

U.R. to R.H.D. No. 14987/A, dated 13th September 1952.

Mjr/14/6

4 Cs.

Office of the R.L.A.

Shri Ebrahim Ahmed Khota was, it appears, prosecuted for the offence of entering India without a permit. The Magistrate discharged him beacuse he had in fact a valid permit when he entered India. He cannot/ therefore be removed under section 7 of the Influx from Pakistan (Control) Act, 1949, on the same ground. It appears however that his permit for permanent return was cancelled by the High Commissioner for India in Pakistan. If so, he would be liable to a prosecution for overstayal. He could also be removed. It is for the Administrative Department to decide what effective action should be taken.

Sd/- P.M.Lad

o.c. 3/10

Remembrancer of Legal Affairs.

Mjr/14/6

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Ltr. to R.A.D. No. 16369/A dated 6th Oct. 1952

Office of the R.L.A.

The accused having been convicted for an offence under section 5 of the Influx from Pakistan (Control) Act, 1949 , he can be removed under section 7 of the Act, The lapse of four years since the date he committed an offence under the Act being expalinable would not be a bar to the exercise of the power of removal under section7..

Sd. /. P.M.Lad
o.c. 29/12
Remembrancer of Legal Affairs..

U.R. to R.H.D. No. 22140-A , dated the 31st December 1952.

Mjr/14/6
5 Cs.